

Misbranding, Section 502 (a), the normal temperature arrow pointing to the 99° mark was misleading since it should point to the 98.6° mark; and the following statements in the labeling of the article were false and misleading as applied to the article, which would not give accurate readings: "This certifies that the enclosed thermometers have been tested on the above date at 98°, 102°, and 106° F. and are correct within plus or minus 2/10 F. at any of these test points. This test is governed by a Standard Thermometer which has been tested and approved by the Bureau of Standards, Washington, D. C. All our thermometers are manufactured in accord with their specifications. (C. S. 1-32 Department of Commerce). The enclosed thermometers are guaranteed to be of absolute accuracy."

DISPOSITION: January 12, 1951 Default decree of forfeiture and destruction.

## DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS

### DRUGS FOR HUMAN USE\*

3351. Misbranding of *To-Ne-Ka* herbs, *Black Eagle* medicine, and *Toneka* tonic tablets. U. S. v. 27 Packages, etc. (F. D. C. No. 30366. Sample Nos. 43385-K to 43388-K, incl.)

LABEL FILED: January 24, 1951, Northern District of Illinois.

ALLEGED SHIPMENT: On or about April 5 and October 13 and 16, 1950, from Cincinnati, Ohio.

PRODUCT: 27 2-ounce packages and 29 1-ounce packages of *To-Ne-Ka* herbs, 23 8-ounce bottles of *Black Eagle* medicine, and 31 30-tablet packages of *Toneka* tonic tablets at Chicago, Ill., in possession of George H. Davis, together with a number of leaflets entitled "Nature's Way To Health and Relief," "To Get Back To Daily Habit Time," and "When You Feel The Symptoms."

RESULTS OF INVESTIGATION: The leaflets were designed by Mr. Davis and were printed upon his instructions. They were sent to prospective customers and were distributed with each article sold.

LABEL, IN PART: (Package) "*To-Ne-Ka* Brand Herbs \* \* \* Active Laxative Ingredients: Buckthorn, Aloe and Senna Leaves. Active Stomachic and Stimulant to the Appetite Ingredients: Gentian, Ginger, Calamus, Quassia and Burdock Root"; (bottle) "*Black Eagle* Brand Medicine \* \* \* Active Laxative Ingredients: Sodium Phosphate, Senna, Cascara Sagrada and Buckthorn. Active Carminative Ingredients: Cinnamic Aldehyde, Fennel, Ginger, Oil Peppermint and Oil Cassia"; and (package) "*Toneka* Brand Tonic Tablets \* \* \* Active Ingredients: Iron (Ferrous) Sulphate, and Gentian Root."

NATURE OF CHARGE: Misbranding, Section 502 (a), the following statements in the leaflets were false and misleading since the articles were not capable of fulfilling the promises of benefits, stated and implied: (*To-Ne-Ka* Herbs) "Good Health \* \* \* When the intestines are not functioning properly, the residue remains in the large intestines, distends them and weakens their muscles, fermenting waste matter may accumulate and release poisonous gases. Old Folks and young folks, too, who are troubled with biliousness \* \* \* sick, sour stomach, belching, bloating, gas on stomach, poor ap-

\*See also Nos. 3342, 3344, 3346, 3347, 3349, 3350.

petite, bad breath, sick headache, dizziness, sensation of fullness after meals, uneasiness, depression of spirits, etc., may find relief with the use of: To-Ne-ka Herbs \* \* \* for the relief from ills of mankind \* \* \* If you seem to lack the pep and go that you used to have, if your liver seems sluggish and your legs feel crampy \* \* \* Try To-Ne-Ka Herbs"; (Black Eagle medicine) "To have normal elimination instead of the harsh laxative way, use this gentle but positive liquid herb medicine that encourages daily, regular elimination \* \* \* When you are tired and feel worn out, troubled with biliousness \* \* \* sick, sour stomach, gas on stomach, poor appetite, fullness after meals \* \* \* Enjoy New Life \* \* \* You may be free of all \* \* \* bad breath, sick headaches, dizziness, depression of spirits; you may enjoy a feeling of new life—have pep and go \* \* \* When your liver seems sluggish and your legs feel crampy—you may find relief in the use of Black Eagle Brand Medicine \* \* \* A Liquid Herb Medicine that is easy and pleasant to take. Contains nothing harmful and may be taken by children as well as adults with assurance of safety"; and (Toneka tonic tablets) "When there is Lack of Zip and Zest, and you otherwise Don't Feel up to par \* \* \* When you feel nervous, dull, lazy, and have no ambition to work or play \* \* \* feel blue, when headaches get the best of you and you feel old before your time, and life seems to be not worth living \* \* \* Toneka Iron Tonic may then be what you need \* \* \* Nature's minerals and roots, the oldest and most reliable remedy for rheumatism, kidney and stomach ailments. Watch your elimination from your bowels a day or two after using it. The waste, black as the color of your shoes, will start to break away \* \* \* Also examine your urine. You may see poisonous wastes and impurities coming from your kidneys, relieving you \* \* \* Try Toneka Iron Tonic Tablets Regardless of how long you have been suffering."

The articles were misbranded while held for sale after shipment in interstate commerce.

**DISPOSITION:** March 14, 1951. Default decree of condemnation and destruction.

**3352. Misbranding of Yerbama. U. S. v. 100 Packages, etc. (F. D. C. No. 30335. Sample No. 80139-K.)**

**LABEL FILED:** December 11, 1950, District of Massachusetts.

**ALLEGED SHIPMENT:** From the Country of Brazil.

**PRODUCT:** 100 8-ounce packages of *Yerbama* at Boston, Mass., in possession of the Brazilian Yerbama Co., together with a quantity of the product in bulk, a number of booklets entitled "Health," and a number of leaflets entitled "Yerbama."

**RESULTS OF INVESTIGATION:** The article was imported from Brazil in bulk, and a portion was repackaged and relabeled by the dealer. The booklets and the leaflets were printed locally for the dealer.

**LABEL, IN PART:** (Package) "Yerbama \* \* \* Contents: 100% Dried Leaves *Ilex Paraguensis*."

**NATURE OF CHARGE:** Misbranding, Section 502 (a), the following statements, which appeared on the package label and in the booklets and leaflets, were false and misleading since the action of the article on the user differed from that stated and implied: (Carton label) "Nutritious and bracing for nerve and muscle Does not cause insomnia or disturbance of heart action \* \* \* a nutritious and mentally invigorating food beverage. It stimulates the func-